

Reply to Office Action of October 20, 2005  
Amendment Dated: November 20, 2005

Appl. No.: 09/910,936  
Attorney Docket No.: CSCO-006/2879

### REMARKS

Claims 1-27 were examined in the final office action mailed on 10/20/2005 (hereafter "Outstanding Office Action"). All the claims were rejected. In page 6 of the Outstanding Office Action, it was stated that:

The affidavit filed on 9/14/05 under 37 CFR 1.131 has been considered but is ineffective to overcome the March reference.

The evidence submitted is insufficient to establish applicant's alleged actual reduction to practice of the invention in this country or a NAFTA or WTO member country after the effective date of the March reference. *None of Exhibit A, B, C, and D shows a data prior to June 14, 2001. For Exhibit A, the applicant stated that the actual dates of Exhibit A have been whited-out. For Exhibit B, the actual dates of Exhibit B have also been whited-out.* The dates for Exhibits C and D are June 25, 2001 and July 6, 2001, respectively.

Applicant first note applicants sought to swear behind the March reference by the following showing outlined in MPEP § 715.07.III:

C) *conception* of the invention prior to the *effective date* of the reference coupled with due diligence from prior to the reference date to the filing date of the application (constructive reduction to practice).  
(*Emphasis Added*)

Applicant respectfully notes that "June 14, 2001" represents the effective date of the reference, the date before which conception is to be shown.

In particular, it is pointed out the applicant does not need to provide the specific dates (prior to the effective date of the reference) other than alleging that the acts referred to occurred prior to the effective date of the reference. Applicant quotes the relevant section of MPEP as a basis of such an assertion:

#### MPEP 715.07. II. ESTABLISHMENT OF DATES

If the dates of the exhibits have been removed or blocked off, *the matter of dates can be taken care of in the body of the oath or declaration.*

When alleging that conception or a reduction to practice occurred prior to the effective date of the reference, the dates in the oath or declaration may be the actual dates or, *if the applicant or patent owner does not desire to disclose his or her actual dates, he or she may merely allege that the acts referred to occurred prior*

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*to a specified date.* However, the actual dates of acts relied on to establish diligence must be provided. See MPEP § 715.07(a) regarding the diligence requirement.  
(*Emphasis Added*)

In view of the above clarification, it is believed that the Applicants under no obligation to have shown the actual dates of Exhibits A and B, which have been alleged to have occurred prior to the effective date of the March reference (June 14 2001).

Accordingly, it is believed that the Applicants have met the required burden in showing a date of invention prior to the effective date of the reference. Withdrawal of the March reference as effective prior art and withdrawal of the final rejection, is therefore respectfully requested.

The Examiner is invited to telephone the undersigned representative if it is believed that an interview might be useful for any reason.

Respectfully submitted,



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